

REMARKS

In an Office Action mailed on September 30, 2002, restriction was required to either claims 1-8 of Group I or claims 9-18 of Group II; an objection was made to the declaration; objections were made to the drawings; claim 7 was rejected under 35 U.S.C. § 112, second paragraph; and claims 1-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bonnefoy in view of European publication EP 782209 (herein called the "European Application").

Applicant hereby affirms the election of claims 1-8 of Group I without traverse, and in view of this election, claims 9-18 have been canceled. A new Declaration is being submitted herewith to overcome the objection to the declaration. A Supplemental Application Data Sheet is being filed concurrently with this Reply. A Proposed Drawing Amendment is being submitted concurrently with this Reply to overcome the objections to the drawings. Claim 7 has been amended to clarify that the "load" of claim 7 refers to the "second load" of claim 1. Newly added claim 19 is patentable over the cited art. The § 103 rejections of claims 1-8 are discussed below.

A marked-up version of the amended claims is submitted as a separate document. The undersigned has endeavored to ensure that the clean and marked-up versions of the amended claims correspond. However, the Examiner is specifically requested to verify that these two versions of the claims are consistent.

The method of claim 1 includes providing a fuel flow to a fuel cell stack to produce power. At least some of the power is consumed by a first load. In response to a decrease in at least one of the power that is produced by the fuel cell stack and the power that is consumed by the first load, the method includes determining whether to route at least some of the power produced by the fuel cell stack and not consumed by the first load to a second load. Based on this determination, the method includes selectively routing at least some of this power that is produced by the fuel cell stack and not consumed by the first load to the second load.

Contrary to the limitations of claim 1, neither Bonnefoy nor the European application teaches or suggests, alone or in combination, all limitations of claim 1. For example, claim 1 states that in response to at least one of a decrease in power that is produced by a fuel cell stack and a power consumed by a load, *determining* whether to route at least some of the power that is produced by the fuel cell stack and is not consumed by the first load. (emphasis added). In contrast, Bonnefoy teaches *automatically* routing electric power to a battery in the event of a deficiency between the power that is consumed by a load and the power that is available at fuel cell terminals. In this regard, Bonnefoy states, "if the load 4 requires an electric power lower than the one available at the fuel cell 1 terminals, the battery takes profit from the excess of electric energy and recharges." Bonnefoy, 2:58-60. Thus, Bonnefoy does not disclose determining whether to route this excess power to the battery, but rather, Bonnefoy teaches automatically routing excess energy to the battery. The European Application fails to provide the claim limitations not taught by Bonnefoy. Thus, for at least the reason that neither reference (alone or in combination) teaches all claim limitations, a *prima facie* case of obviousness has not been established for claim 1. M.P.E.P. § 2143.

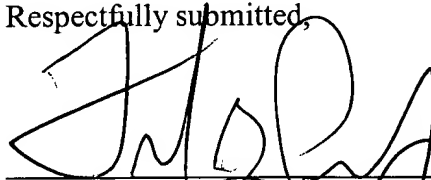
A *prima facie* case of obviousness has not been established for claim 1 for at least the additional reason that the Examiner fails to provide support for the alleged suggestion or motivation to combine Bonnefoy and the European Application. In this manner, the Examiner must provide a specific cite to a prior art reference showing the alleged suggestion or motivation. *Ex parte Gambogi*, 62 USPQ2d 1209, 1212 (Bd. Pat. App. & Int. 2001); *In re Rijckaert*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); M.P.E.P. § 2143. Therefore, for at least this additional, independent reason, a *prima facie* case of obviousness has not been established for claim 1.

Claims 2-8 are patentable for at least the reason that these claims depend from an allowable claim. Therefore, in view of the discussion above, withdrawal of the § 103 rejections of claims 1-8 is requested.

CONCLUSION

In view of the foregoing, withdrawal of the rejections and a favorable action in the form of Notice of Allowance are requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504 (PUG.0056US).

Respectfully submitted,



Fred G. Pruner, Jr., Registration No. 40,779
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024
(713) 468-8880 [Phone]
(713) 468-8883 [Fax]

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CLAIM AMENDMENTS

The claims have been amended as follows:

1. (Amended) A method usable with a fuel cell stack, comprising:
providing a fuel flow to the fuel cell stack to produce power₁[:] at least some of the power being consumed by a first load;
in response to a decrease in at least one of the power produced by the fuel cell stack and the power consumed by the first load, determining whether to route at least some of the power produced by the fuel cell stack and not consumed by the first load to a second load; and
based on the determination, selectively routing said at least some of the power produced by the fuel cell stack and not consumed by the first load to the second load.
7. (Amended) The method of claim 6, wherein the routing occurs until the fuel flow is decreased to a level at which the power routed to the second load is approximately zero.